

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION AT JACKSON**

**CHRISTINE PHILLIPS**

**PLAINTIFF**

**VS.**

**CAUSE NO. 3:19-cv-704-DPJ-FKB**

**KROGER LIMITED PARTNERSHIP I  
AND JOHN DOES 1-5**

**DEFENDANTS**

**NOTICE OF REMOVAL**

**PLEASE TAKE NOTICE** that Defendant, Kroger Limited Partnership I, (sometimes hereinafter referred to as “Kroger” or “Kroger Defendant”), by and through counsel, has removed this action pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and other applicable law, from the Circuit Court of the First Judicial District of Hinds County, Mississippi, (Civil Cause No. 19-452 (MEC Case Number: 25CI1:19-cv-00452-TTG)) to the United States District Court for the Southern District of Mississippi, Northern Division, located at Jackson, MS. The basis for removal is diversity of citizenship.

**Nature of the Civil Action Removed**

1.

On September 17, 2019 the Plaintiff filed the Amended Complaint in the above referenced civil action, which for the first time gave notice that claims were being asserted against this defendant, Kroger Limited Partnership I. Process has not yet been effected, but the docket sheet indicates that a summons has been issued for service upon this defendant. This lawsuit first became removable to this Court at that time. A copy of the Plaintiff’s Amended Complaint filed with the Clerk of the Hinds County Circuit Court, Mississippi, along with all

process, pleadings and orders is attached hereto as **Exhibit “A”** and incorporated herein by reference.

2.

The Amended Complaint alleges that this lawsuit arose out of a slip and fall in rocks and other impediments in the parking lot near the Kroger store located at 107 Highway 80 East, Clinton, Mississippi, on April 19, 2018. The Amended Complaint alleges negligence and seeks damages for personal injuries in an unlimited amount for past, present, and future medical bills and expenses, and past, present, and future pain and suffering,; and past, present and future emotional distress.

### **Removal Based on Diversity of Citizenship**

3.

Taking the allegations of the Amended Complaint as true, Plaintiff is an adult resident citizen of Hinds County, Mississippi.

4.

Kroger Limited Partnership I, is an entity formed under the laws of the State of Ohio with its principal place of business located within the State of Ohio. Kroger Limited Partnership I, operates the grocery store in question. Further, Defendant provides the following CORPORATE DISCLOSURE STATEMENT for KROGER LIMITED PARTNERSHIP I. The partners of Kroger Limited Partnership I are: KRGP Inc. is the general partner. It is an Ohio Corporation with Ohio citizenship. There are no parent corporations nor any publicly held corporations which own ten percent (10%) or more of its stock. The Kroger Co. is the limited partner. It is an Ohio Corporation with Ohio citizenship. There are no parent corporations nor any publicly held

corporations which own ten percent (10%) or more of its stock. All Defendants required for removal have consented to and/or joined in this removal.

5.

Pursuant to 28 U.S.C. § 1332 and § 1441, this Court has original subject matter jurisdiction over the present action based on diversity of citizenship, in that it is a civil action where the matter in controversy is between citizens of different states and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. The Amended Complaint was not filed in Hinds County Court with limited jurisdiction, but was filed and alleges and demands an unlimited amount of recovery of damages for personal injuries and past, present and future medical treatment, in the Circuit Court of Hinds County, Mississippi.

6.

Pursuant to 28 U.S.C. § 1441, the United States District Court for the Southern District of Mississippi, Northern Division at Jackson, is the federal district court for the district and division embracing the place where the state court suit is pending.

7.

**Notice to Adverse Parties and the  
Clerk of the Circuit Court, Hinds County, Mississippi**

8.

The removing defendant hereby certifies that written notice of the filing of this NOTICE OF REMOVAL has been served upon all adverse parties and a copy will be filed with the Clerk of the Circuit Court of Hinds County, Mississippi, thereby effecting the removal of this action to this Court. Pursuant to 28 U.S.C. § 1446(d) notice is hereby given that the state court action shall proceed no further unless and until the case is remanded.

**WHEREFORE, PREMISES CONSIDERED**, the removing Defendant files this NOTICE OF REMOVAL with the United States District Court for the Southern District of Mississippi, Northern Division at Jackson, and respectfully prays that this Court will proceed with the handling of this case as if it had been originally filed herein, and that further proceedings in the Circuit Court of Hinds County, Mississippi, shall proceed no further unless and until the case is remanded thereto.

**RESPECTFULLY SUBMITTED**, this the 1st day of October, 2019.

FOR: **Kroger Limited Partnership I**

BY: /s/Monte L. Barton Jr.  
MONTE L. BARTON JR.

OF COUNSEL:

Monte L. Barton Jr. (MSB #2095)

**HAGWOOD AND TIPTON**

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**CERTIFICATE OF SERVICE**

I, the undersigned attorney of record, do hereby certify that I have this day served a true and correct copy of the foregoing NOTICE OF REMOVAL via the ECF and MEC systems upon the following:

Toney A. Baldwin (MSB #102161)  
TONEY BALDWIN & ASSOCIATES, PLLC  
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ATTORNEY FOR PLAINTIFF

Hon. Zack Wallace  
Circuit Clerk of Hinds County  
HINDS COUNTY, MISSISSIPPI  
FIRST JUDICIAL DISTRICT  
Circuit Clerk's Office  
P.O. BOX 327  
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E-mail: [zwallace@co.hinds.ms.us](mailto:zwallace@co.hinds.ms.us)

**THIS**, the 1st day of October, 2019.

BY: /s/Monte L. Barton Jr.  
MONTE L. BARTON JR.